



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.20515 of 2017

P.Shanmugam

: Petitioner

. vs .

1. The District Collector,
Collectorate,
Trichy District.
2. The Commissioner (Village Panchayaths),
Panchayath Union Office,
Manapparai, Trichy District.
3. The Block Development Officer,
(Village Panchayaths),
Panchayat Union,
Manapparai Taluk,
Trichy District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the Respondents to consider the Petitioner's representation dated 07.06.2017 and to give sufficient opportunity to the petitioner before passing any orders in respect of removal of encroachment in S.No.57 in Kottaikeelayur Village, Manapparai Taluk, Trichy District.

For Petitioner : Mr.A.Thiyagarajan
For Respondents : Mr.M.Govindan,
Special Government Pleader

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in directing the Respondents to consider the Petitioner's representation dated 07.06.2017 and to give sufficient opportunity to the petitioner before passing any orders in respect of removal of encroachment in S.No.57 in Kottaikeelayur Village, Manapparai Taluk, Trichy District.



2. Heard both sides. No Counter-affidavit is filed on behalf of Respondent Nos.1 to 3.

3. By consent, the main Writ Petition itself is taken up for final disposal.

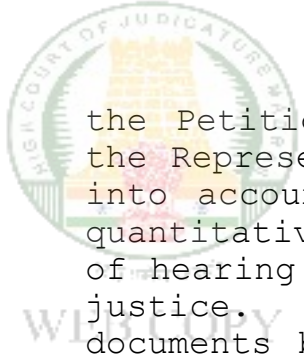
4. According to the Petitioner, he is residing along with his family members in Survey No.57 of Kottaikeelaiyur Village, Manapparai Taluk, for more than 50 years, by constructing a house and he is in possession and enjoyment of the above said house without any hindrance. Also, he is paying necessary tax to Revenue Authorities. It appears that the Third Respondent/Block Development Officer(Village Panchayat), Panchayat Union Office, Manapparai Taluk, Trichy District, had caused a notice dated 26.05.2017 to the Petitioner stating that he is an encroacher and he has to remove the encroachment in question within fifteen days from the date of receipt of a copy of the notice. Also, the impugned notice dated 26.05.2017 refers to an order passed by this Court in W.P(MD)No.2491 of 2017.

5. A perusal of the affidavit of the Petitioner at Paragraph No.5 of the Writ Petition unerringly points out that the Petitioner has no objection to remove the encroachment in the Tank and in fact, his house is situated far away from the Tank and that the Authorities concerned without applying their mind had issued the impugned notice to him to remove the encroachment.

6. The categorical plea taken by the Petitioner is that he is not an encroacher and therefore, the Authorities are bound to evict him only under due process, of course, after providing sufficient opportunity to the Petitioner by issuing notice to him. As a matter of fact, without receiving his explanation, it is the stand of the Petitioner that the Respondents shall not take any further steps in the subject matter in issue.

7. Furthermore, the Petitioner has come out with the plea that Survey No.57 of Kottaikeelaiyur Village, Manapparai Taluk, was not properly surveyed and demarcated with the qualified Surveyor and that, the ingredients and procedure envisaged under the Tamil Nadu Land Encroachment Act, 1905 and the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007, were not adhered to in true letter and spirit by the Respondent concerned.

8. Considering the fact that the Petitioner's Representation dated 07.06.2017, is pending before the Third Respondent and this Court by taking note of the fact that the said Representation is not disposed of till date, in the interest of Justice, Equity, Fair Play, this Court directs the Third Respondent to look into the Representation of the Petitioner, dated 07.06.2017, within a period of two weeks from today. Thereafter, the Third Respondent shall look into the contents, merits and demerits of the Representation of



the Petitioner and if the Third Respondent finds any substance in the Representation made by the Petitioner as afore stated, can take into account of the same and to pass a detailed, qualitative and quantitative order, of course, after providing necessary opportunity of hearing to the Petitioner by following the principles of natural justice. It is open to the Petitioner to produce necessary documents before the Third Respondent, who shall take into account of the same and advert to the both factual and legal pleas of the Petitioner while passing fresh orders on the Representation of the Petitioner made, within a period of four weeks thereafter. Till final orders are passed the Third Respondent, the Respondents shall not disturb the possession of the Petitioner from the subject matter of Land by any means.

9. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Collectorate,
Trichy District.
2. The Commissioner (Village Panchayaths),
Panchayath Union Office,
Manapparai,
Trichy District.
3. The Block Development Officer,
(Village Panchayaths),
Panchayat Union,
Manapparai Taluk,
Trichy District.

+ 1 CC TO Mr.A.THIYAGARAJAN, ADVOCATE IN SR No. 85942

PM

TE/KP/SAR-I : 15/11/2017 : 3P/5C

ORDER MADE IN
W.P. (MD) No.20515 of 2017
07.11.2017